

# Senate File 540 - Enrolled

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SENATE FILE 540

AN ACT  
RELATING TO TRUSTS AND ESTATES INCLUDING FIDUCIARIES AND  
BENEFICIARIES AND INCLUDING APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 421.27, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. The failure to file a timely inheritance tax return resulting solely from a disclaimer that required the personal representative to file an inheritance tax return. The penalty shall be waived if such return is filed and any tax due is paid within the later of nine months from the date of death or sixty days from the delivery or filing of the disclaimer pursuant to section 633E.12.

Sec. 2. Section 450.4, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. On the value of tangible personal property as defined in section 633.276 which is distributed in kind from the estate if the aggregate of all tangible personal property in the estate does not exceed five thousand dollars.

Sec. 3. Section 561.1, Code 2007, is amended to read as follows:

561.1 "HOMESTEAD" DEFINED.

1. The homestead must embrace the house used as a home by the owner, and, if the owner has two or more houses thus used, the owner may select which the owner will retain. It may contain one or more contiguous lots or tracts of land, with the building and other appurtenances thereon, habitually and in good faith used as part of the same homestead.

2. As used in this chapter, "owner" includes but is not limited to the person, or the surviving spouse of the person, occupying the homestead as a beneficiary of a trust that includes the property in the trust estate.

Sec. 4. NEW SECTION. 598.20A BENEFICIARY REVOCATION ==

LIFE INSURANCE.

1. Except as preempted by federal law, if a decree of dissolution, annulment, or separate maintenance is issued after an insured has designated the insured's spouse or one or more relatives of the insured's spouse as a beneficiary under a life insurance policy in effect on the date of the decree, a provision in the life insurance policy making such a designation is voided by the issuance of the decree unless any of the following apply:

a. The decree designates the insured's former spouse or one or more relatives of the insured's spouse as beneficiary.

b. After issuance of the decree, the insured executes a designation of beneficiary form provided by the insurance company naming the insured's former spouse or one or more relatives of the insured's former spouse as beneficiary.

c. The insured and the insured's former spouse remarry.

2. If a beneficiary designation is not effective pursuant to subsection 1, the benefits or proceeds of the life insurance policy are payable to an alternate beneficiary, or if there is no alternate beneficiary, to the estate of the insured.

3. An insurer who pays benefits or proceeds of a life insurance policy to a beneficiary under a designation that is void pursuant to subsection 1 is not liable for payment to an alternative beneficiary as provided under subsection 2 unless both of the following apply:

a. At least ten days prior to payment of the benefits or proceeds of the life insurance policy to the designated beneficiary, the insurer receives written notice at the home office of the insurer that the designation of the beneficiary is not effective pursuant to subsection 1.

b. The insurer has failed to interplead the benefits or proceeds of the life insurance policy in a court of competent jurisdiction in accordance with the rules of civil procedure.

4. This section does not limit the right of a beneficiary to seek recovery from any person or entity that erroneously

3 4 receives or collects the benefits or proceeds from a life  
3 5 insurance policy.

3 6 5. This section does not affect the right of an insured's  
3 7 former spouse to assert an ownership interest in a life  
3 8 insurance policy that is not disclosed to the insured's spouse  
3 9 prior to the decree of dissolution, annulment, or separate  
3 10 maintenance and that is not addressed by the decree.

3 11 6. For purposes of this section, "relative of the  
3 12 insured's spouse" means a person who is related to the  
3 13 insured's former spouse by blood, adoption, or affinity, and  
3 14 who, subsequent to a decree of dissolution, annulment, or  
3 15 separate maintenance, ceases to be related to the insured by  
3 16 blood, adoption, or affinity.

3 17 Sec. 5. NEW SECTION. 598.20B BENEFICIARY REVOCATION ==  
3 18 OTHER CONTRACTS.

3 19 1. Except as preempted by federal law, if a decree of  
3 20 dissolution, annulment, or separate maintenance is issued  
3 21 after a participant, annuitant, or account holder has  
3 22 designated the participant's, annuitant's, or account holder's  
3 23 spouse or one or more relatives of the participant's,  
3 24 annuitant's, or account holder's spouse as beneficiary under  
3 25 any individual retirement account, stock option plan, transfer  
3 26 on death account, payable on death account, or annuity in  
3 27 force at the date of the decree, a provision in the retirement  
3 28 account, stock option plan, transfer on death account, payable  
3 29 on death account, or annuity designating the participant's,  
3 30 annuitant's, or account holder's spouse or one or more  
3 31 relatives of the participant's, annuitant's, or account  
3 32 holder's spouse as beneficiary is voided by the issuance of  
3 33 the decree unless any of the following apply:

3 34 a. The decree designates the participant's, annuitant's,  
3 35 or account holder's spouse or one or more relatives of the  
4 1 participant's, annuitant's, or account holder's spouse as  
4 2 beneficiary.

4 3 b. After issuance of the decree, the participant,  
4 4 annuitant, or account holder executes a designation of  
4 5 beneficiary form provided by the plan or company naming the  
4 6 participant's, annuitant's, or account holder's former spouse  
4 7 or one or more relatives of the participant's, annuitant's, or  
4 8 account holder's former spouse as the beneficiary.

4 9 c. The participant, annuitant, or account holder and the  
4 10 participant's, annuitant's, or account holder's former spouse  
4 11 remarry.

4 12 d. Prior to the issuance of the decree, annuity payments  
4 13 have irrevocably commenced based on the joint life  
4 14 expectancies of the participant, annuitant, or account holder  
4 15 and the participant's, annuitant's, or account holder's former  
4 16 spouse.

4 17 2. If a beneficiary designation is not effective pursuant  
4 18 to subsection 1, the benefits or proceeds from the individual  
4 19 retirement account, stock option plan, transfer on death  
4 20 account, payable on death account, or annuity are payable to  
4 21 an alternate beneficiary, or if there is no alternate  
4 22 beneficiary, to the estate of the participant, annuitant, or  
4 23 account holder.

4 24 3. A business entity, employer, insurer, financial  
4 25 institution, or other person or entity obligated to pay the  
4 26 benefits or proceeds from an individual retirement account,  
4 27 stock option plan, transfer on death account, payable on death  
4 28 account, or annuity to a beneficiary under a designation that  
4 29 is void pursuant to subsection 1 is not liable for payment of  
4 30 the benefits or proceeds to a beneficiary as provided under  
4 31 subsection 2 unless both of the following apply:

4 32 a. At least ten days prior to payment of the benefits or  
4 33 proceeds to the designated beneficiary, the business entity,  
4 34 employer, insurer, financial institution, or other person or  
4 35 entity obligated to pay the benefits or proceeds receives  
5 1 written notice at the home office of the business entity,  
5 2 employer, insurer, financial institution, or other person or  
5 3 entity that the designation of the beneficiary is not  
5 4 effective pursuant to subsection 1.

5 5 b. The business entity, employer, insurer, financial  
5 6 institution, or other person or entity has failed to  
5 7 interplead the benefits or proceeds in a court of competent  
5 8 jurisdiction in accordance with the rules of civil procedure.

5 9 4. This section does not limit the right of a beneficiary  
5 10 to seek recovery from any person or entity that erroneously  
5 11 receives or collects the benefits or proceeds of an individual  
5 12 retirement account, stock option plan, transfer on death  
5 13 account, payable on death account, or annuity.

5 14 5. This section does not affect the right of the

5 15 participant's, annuitant's, or account holder's former spouse  
5 16 to assert an ownership interest in an individual retirement  
5 17 account, stock option plan, transfer or payable on death  
5 18 account, or annuity that is not disclosed to the  
5 19 participant's, annuitant's, or account holder's spouse prior  
5 20 to the issuance of the decree of dissolution, annulment, or  
5 21 separate maintenance and that is not addressed by the decree.  
5 22 6. For purposes of this section, "relative of the  
5 23 participant's, annuitant's, or account holder's spouse" means  
5 24 a person who is related to the participant's, annuitant's, or  
5 25 account holder's former spouse by blood, adoption, or  
5 26 affinity, and who, subsequent to a decree of dissolution,  
5 27 annulment, or separate maintenance ceases to be related to the  
5 28 participant, annuitant, or account holder by blood, adoption,  
5 29 or affinity.

5 30 Sec. 6. Section 602.8102, subsection 106, Code 2007, is  
5 31 amended to read as follows:

5 32 106. Carry out duties relating to the administration of  
5 33 small estates as provided in ~~sections 635.1, 635.7, and 635.9~~  
5 34 ~~chapter 635.~~

5 35 Sec. 7. NEW SECTION. 633.123 PRUDENT INVESTMENTS ==  
6 1 FIDUCIARIES.

6 2 1. When investing, reinvesting, purchasing, acquiring,  
6 3 exchanging, selling, or managing property for the benefit of  
6 4 another, a fiduciary shall consider all of the following  
6 5 circumstances along with the circumstances identified in  
6 6 section 633A.4302, if applicable:

6 7 a. The length of time the fiduciary will have control over  
6 8 the estate assets and the anticipated costs of complying with  
6 9 the provisions of this section.

6 10 b. The unique nature of all of the following:

6 11 (1) The duties of a personal representative or  
6 12 conservator.

6 13 (2) The assets, income, expenses, and distribution  
6 14 requirements of the estate.

6 15 (3) The needs and rights of the beneficiaries or the ward.

6 16 c. The express provisions of a will, codicil, or other  
6 17 controlling instrument.

6 18 2. The standards identified in this section shall be  
6 19 applied differently than similar standards for investment and  
6 20 management of trust property. Special consideration shall be  
6 21 given to the expected term of estates. Because some estates  
6 22 will have limited duration, there may be situations where an  
6 23 investment or a change in an investment is not warranted.

6 24 Sec. 8. Section 633.168, Code 2007, is amended to read as  
6 25 follows:

6 26 633.168 OATH == CERTIFICATION.

6 27 Every fiduciary, before entering upon the duties of the  
6 28 fiduciary's office ~~and within such time as the court or clerk~~  
6 29 ~~directs,~~ shall subscribe an oath ~~or certify under penalties of~~  
6 30 ~~perjury~~ that the fiduciary will faithfully discharge the  
6 31 duties imposed by law, according to the best of the  
6 32 fiduciary's ability.

6 33 Sec. 9. Section 633.178, Code 2007, is amended to read as  
6 34 follows:

6 35 633.178 LETTERS.

7 1 Upon the filing of an oath of office or certification and a  
7 2 bond, if any is required, the clerk shall issue letters under  
7 3 the seal of the court, giving the fiduciary the powers  
7 4 authorized by law.

7 5 Sec. 10. Section 633.199, Code 2007, is amended to read as  
7 6 follows:

7 7 633.199 EXPENSES AND EXTRAORDINARY SERVICES.

7 8 Such further allowances as are just and reasonable may be  
7 9 made by the court to personal representatives and their  
7 10 attorneys for actual necessary and extraordinary expenses ~~or~~  
7 11 ~~and~~ services. Necessary and extraordinary services shall be  
7 12 construed to ~~also~~ include ~~but not be limited to~~ services in  
7 13 connection with real estate, tax matters, and litigated  
7 14 ~~issues, disputed matters, nonprobate assets, reopening the~~  
7 15 ~~estate, location of unknown and lost heirs and beneficiaries,~~  
7 16 ~~and management and disposition of unusual assets. Relevant~~  
7 17 ~~factors to be considered in determining the value of such~~  
7 18 ~~services shall include but not be limited to the following:~~

7 19 1. Time necessarily spent by the personal representatives  
7 20 and their attorneys.

7 21 2. Nature of the matters or issues and the extent of the  
7 22 services provided.

7 23 3. Complexity of the issues and the importance of the  
7 24 issues to the estate.

7 25 4. Responsibilities assumed.

7 26 5. Resolution.  
 7 27 6. Experience and expertise of the personal  
 7 28 representatives and their attorneys.  
 7 29 Sec. 11. Section 633.231, Code 2007, is amended to read as  
 7 30 follows:  
 7 31 633.231 NOTICE IN INTESTATE ESTATES == MEDICAL ASSISTANCE  
 7 32 CLAIMS.  
 7 33 Upon opening administration of an intestate estate, the  
 7 34 administrator ~~may~~ shall, in accordance with section 633.410,  
 7 35 provide by ordinary mail to the entity designated by the  
 8 1 department of human services, a notice of opening  
 8 2 administration of the estate and of the appointment of the  
 8 3 administrator, which shall include a notice to file claims  
 8 4 with the clerk within the later to occur of ~~fifteen~~ four  
 8 5 months from the second publication of the notice to creditors  
 8 6 or ~~two~~ six months from the date of mailing of this notice, or  
 8 7 thereafter be forever barred.  
 8 8 The notice shall be in substantially the following form:  
 8 9 NOTICE OF OPENING ADMINISTRATION OF ESTATE, OF  
 8 10 APPOINTMENT OF ADMINISTRATOR, AND NOTICE TO CREDITOR  
 8 11 In the District Court of Iowa  
 8 12 In and for .... County.  
 8 13 In the Estate of ....., Deceased  
 8 14 Probate No. ....  
 8 15 To the Department of Human Services Who May Be Interested  
 8 16 in the Estate of ....., Deceased, who died on or about ....  
 8 17 (date):  
 8 18 You are hereby notified that on the ... day of ....  
 8 19 (month), ... (year), an intestate estate was opened in the  
 8 20 above-named court and that ..... was appointed administrator  
 8 21 of the estate.  
 8 22 You are further notified that the birthdate of the deceased  
 8 23 is .... and the deceased's social security number is  
 8 24 ...=...=.... The name of the spouse is ..... The birthdate  
 8 25 of the spouse is .... and the spouse's social security number  
 8 26 is ...=...=...., and that the spouse of the deceased is alive  
 8 27 as of the date of this notice, or deceased as of .... (date).  
 8 28 You are further notified that the deceased was/was not a  
 8 29 disabled or a blind child of the medical assistance recipient  
 8 30 by the name of ....., who had a birthdate of .... and a  
 8 31 social security number of ...=...=...., and the medical  
 8 32 assistance debt of that medical assistance recipient was  
 8 33 waived pursuant to section 249A.5, subsection 2, paragraph  
 8 34 "a", subparagraph (1), and is now collectible from this estate  
 8 35 pursuant to section 249A.5, subsection 2, paragraph "b".  
 9 1 Notice is hereby given that if the department of human  
 9 2 services has a claim against the estate for the deceased  
 9 3 person or persons named in this notice, the claim shall be  
 9 4 filed with the clerk of the above-named district court, as  
 9 5 provided by law, duly authenticated, for allowance, and unless  
 9 6 so filed by the later to occur of ~~fifteen~~ four months from the  
 9 7 second publication of the notice to creditors or ~~two~~ six  
 9 8 months from the date of the mailing of this notice, unless  
 9 9 otherwise allowed or paid, the claim is thereafter forever  
 9 10 barred.  
 9 11 Dated this ... day of .... (month), ... (year)  
 9 12 .....  
 9 13 Administrator of estate  
 9 14 .....  
 9 15 Address  
 9 16 .....  
 9 17 Attorney for administrator  
 9 18 .....  
 9 19 Address  
 9 20 Date of second publication  
 9 21 ... day of .... (month), ... (year)  
 9 22 Sec. 12. Section 633.272, Code 2007, is amended to read as  
 9 23 follows:  
 9 24 633.272 PARTIAL INTESTACY.  
 9 25 If part but not all of the estate of a decedent is validly  
 9 26 disposed of by will, the part not disposed of by will shall be  
 9 27 distributed as provided herein for intestate estates. If the  
 9 28 testator left a surviving spouse, and the spouse does not  
 9 29 ~~elect to take against the will~~ take an elective share, the  
 9 30 spouse shall receive, in addition to the property given to the  
 9 31 spouse by the will, ~~all~~ so much of the intestate property  
 9 32 ~~which shall be~~ subject to the payment of its proportionate  
 9 33 share of debts and charges ~~against the estate as the spouse~~  
 9 34 would receive pursuant to section 633.211 or 633.212.  
 9 35 Sec. 13. Section 633.304A, Code 2007, is amended to read  
 10 1 as follows:

10 2 633.304A NOTICE OF PROBATE OF WILL == MEDICAL ASSISTANCE  
10 3 CLAIMS.  
10 4 On admission of a will to probate, the executor ~~may~~ shall,  
10 5 in accordance with section 633.410, provide by ordinary mail  
10 6 to the entity designated by the department of human services,  
10 7 a notice of admission of the will to probate and of the  
10 8 appointment of the executor, which shall include a notice to  
10 9 file claims with the clerk within the later to occur of  
10 10 ~~fifteen four~~ months from the second publication of the notice  
10 11 to creditors or ~~two six~~ months from the date of mailing of  
10 12 this notice, or thereafter be forever barred.  
10 13 The notice shall be in substantially the following form:  
10 14 NOTICE OF PROBATE OF WILL, OF APPOINTMENT OF EXECUTOR,  
10 15 AND NOTICE TO CREDITORS  
10 16 In the District Court of Iowa  
10 17 In and for .... County.  
10 18 In the Estate of ....., Deceased  
10 19 Probate No. ....  
10 20 To the Department of Human Services, Who May Be Interested  
10 21 in the Estate of ....., Deceased, who died on or about ....  
10 22 (date):  
10 23 You are hereby notified that on the .. day of ....  
10 24 (month), .. (year), the last will and testament of .....,  
10 25 deceased, bearing date of the .. day of .... (month), ..  
10 26 (year), was admitted to probate in the above-named court and  
10 27 that ..... was appointed executor of the estate.  
10 28 You are further notified that the birthdate of the deceased  
10 29 is ..... and the deceased's social security number is  
10 30 ~~...=...=....~~ The name of the spouse is ..... The  
10 31 birthdate of the spouse is ..... and the spouse's social  
10 32 security number is ~~...=...=....~~, and that the spouse of the  
10 33 deceased is alive as of the date of this notice, or deceased  
10 34 as of ..... (date).  
10 35 You are further notified that the deceased was/was not a  
11 1 disabled or a blind child of the medical assistance recipient  
11 2 by the name of ....., who had a birthdate of ..... and a  
11 3 social security number of ~~...=...=....~~, and the medical  
11 4 assistance debt of that medical assistance recipient was  
11 5 waived pursuant to section 249A.5, subsection 2, paragraph  
11 6 "a", subparagraph (1), and is now collectible from this estate  
11 7 pursuant to section 249A.5, subsection 2, paragraph "b".  
11 8 Notice is hereby given that if the department of human  
11 9 services has a claim against the estate for the deceased  
11 10 person or persons named in this notice, the claim shall be  
11 11 filed with the clerk of the above-named district court, as  
11 12 provided by law, duly authenticated, for allowance, and unless  
11 13 so filed by the later to occur of ~~fifteen four~~ months from the  
11 14 second publication of the notice to creditors or ~~two six~~  
11 15 months from the date of mailing of this notice, unless  
11 16 otherwise allowed or paid, the claim is thereafter forever  
11 17 barred.  
11 18 Dated this .. day of ..... (month), .. (year)  
11 19 .....  
11 20 Executor of estate  
11 21 .....  
11 22 Address  
11 23 .....  
11 24 Attorney for executor  
11 25 .....  
11 26 Address  
11 27 Date of second publication  
11 28 .. day of ..... (month), .. (year)  
11 29 Sec. 14. Section 633.410, subsection 2, Code 2007, is  
11 30 amended to read as follows:  
11 31 2. Notwithstanding subsection 1, claims for debts created  
11 32 under section 249A.5, subsection 2, relating to the recovery  
11 33 of medical assistance payments shall be barred under this  
11 34 section unless filed with the clerk within the later to occur  
11 35 of ~~fifteen four~~ months after the date of the second  
12 1 publication of the notice to creditors, or ~~two six~~ months  
12 2 after service of notice by ordinary mail, on the form  
12 3 prescribed in section 633.231 for intestate estates or on the  
12 4 form prescribed in section 633.304A for testate estates, to  
12 5 the entity designated by the department of human services to  
12 6 receive notice.  
12 7 Sec. 15. Section 633.551, Code 2007, is amended by adding  
12 8 the following new subsection:  
12 9 NEW SUBSECTION. 5. Except as otherwise provided in  
12 10 sections 633.672 and 633.673, in proceedings to establish a  
12 11 guardianship or conservatorship, the costs, including attorney  
12 12 fees and expert witness fees, shall be assessed against the

ward or the ward's estate unless the proceeding is dismissed either voluntarily or involuntarily, in which case fees and costs may be assessed against the petitioner for good cause shown.

Sec. 16. Section 633.669, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. An annual report, within ninety days of the close of the reporting period, unless the court otherwise orders on good cause shown.

Sec. 17. Section 633.670, subsection 1, paragraph b, subparagraph (1), Code 2007, is amended to read as follows:

(1) Annually, within ninety days of the close of the reporting period, unless the court otherwise orders on good cause shown.

Sec. 18. Section 633.700, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Unless specifically relieved from so doing, by the instrument creating the trust, or by order of the court, the trustee shall make a written report, under oath, to the court, once each year, within ninety days of the close of the reporting period, and more often, if required by the court. Such report shall state:

Sec. 19. Section 633A.4703, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as otherwise provided by the governing instrument, where necessary to abate shares of the beneficiaries of a trust for the payment of debts and charges, federal and state estate taxes, bequests, the share of the surviving spouse who takes an elective share, and the shares of children born or adopted after the execution of the trust, abatement shall occur in the following order:

Sec. 20. Section 633A.4703, subsection 4, Code 2007, is amended to read as follows:

4. Notwithstanding subsections 1, 2, or 3, a disposition in favor of the ~~grantor's settlor's~~ surviving spouse who does not take an elective share shall not be abated where such abatement would have the effect of increasing the amount of federal estate or federal gift taxes payable by a person or an entity.

Sec. 21. Section 635.1, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

635.1 WHEN APPLICABLE.

When the gross value of the probate assets of a decedent subject to the jurisdiction of this state does not exceed one hundred thousand dollars, and upon a petition as provided in section 635.2 of an authorized petitioner in accordance with section 633.227, 633.228, or 633.290, the clerk shall issue letters of appointment for administration to the proposed personal representative named in the petition, if qualified to serve. Unless otherwise provided in this chapter, the provisions of chapter 633 apply to an estate probated pursuant to this chapter.

Sec. 22. Section 635.2, Code 2007, is amended to read as follows:

635.2 PETITION REQUIREMENTS.

The petition for administration of a small estate must contain the following:

1. The name, domicile, and date of death of the decedent.
2. The name and address of the surviving spouse, if any; ~~the name and address of each child of the decedent, the name and address of each parent of the decedent, if the parent is an heir or beneficiary of the decedent, and the name and address of each grandchild of the decedent if the grandchild is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent, and the name and address of each relative within the fourth degree of consanguinity of the decedent who is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent.~~
3. Whether the decedent died intestate or testate, and, if testate, the date of the will was executed.
4. A statement that the probate ~~and nonprobate~~ property of the decedent subject to the jurisdiction of this state does not have an aggregate gross value of more than the amount permitted under the provisions of section 635.1.
5. The name and address of the proposed ~~executor or administrator~~ personal representative.

Sec. 23. Section 635.7, Code 2007, is amended to read as follows:

635.7 REPORT AND INVENTORY == EXCESS VALUE AND TERMINATION CONVERSION.

14 24 1. The executor or administrator personal representative  
14 25 is required to file the report and inventory for which  
14 26 provision is made in section 633.361, including all probate  
14 27 and nonprobate assets. Nothing in sections 635.1 to 635.3  
14 28 shall This chapter does not exempt the executor or  
14 29 administrator personal representative from complying with the  
14 30 requirements of section 422.27, 450.22, 450.58, 633.480, or  
14 31 633.481, and the administration of an estate whether converted  
14 32 to or from a small estate shall be considered one proceeding  
14 33 pursuant to section 633.330.

14 34 2. If the inventory and report shows the gross value of  
14 35 probate assets subject to the jurisdiction of this state which  
15 1 exceed the total gross value of the amount permitted the a  
15 2 small estate under the applicable provision of section 635.1,  
15 3 the clerk shall terminate the letters issued under section  
15 4 635.1 without prejudice to the rights of persons who delivered  
15 5 property as permitted under section 635.3. The executor or  
15 6 administrator shall then be required to petition for  
15 7 administration of the estate shall be administered as provided  
15 8 in chapter 633.

15 9 3. If the inventory report in an estate probated pursuant  
15 10 to chapter 633 indicates the gross value of the probate assets  
15 11 subject to the jurisdiction of this state does not exceed the  
15 12 amount permitted under section 635.1, the estate shall be  
15 13 administered as a small estate upon the filing of a statement  
15 14 by the personal representative that the estate is a small  
15 15 estate.

15 16 4. Other interested parties may convert proceedings from a  
15 17 small estate to a regular estate or from a regular estate to a  
15 18 small estate only upon good cause shown with approval from the  
15 19 court.

15 20 Sec. 24. Section 635.8, Code 2007, is amended to read as  
15 21 follows:

15 22 635.8 CLOSING BY SWORN STATEMENT.

15 23 1. Unless an interested person petitions for  
15 24 administration of the estate on a basis other than for a small  
15 25 estate within four months after letters of administration for  
15 26 a small estate are issued, if those letters of administration  
15 27 are not terminated under the provisions of section 635.7, any  
15 28 property of the estate shall then be free of debts and  
15 29 charges, unless a claim has been filed as provided in section  
15 30 635.13. The executor or administrator is personally liable  
15 31 for the payment of debts and charges against the estate to the  
15 32 extent the assets of the estate would be subject to the  
15 33 payment of those debts and charges under estate administration  
15 34 other than a small estate.

15 35 2. 1. The executor or administrator personal  
16 1 representative shall file with the court a closing statement  
16 2 within six months a reasonable time from the date of issuance  
16 3 of the letters of appointment, and the closing statement shall  
16 4 be verified or affirmed under penalty of perjury, stating all  
16 5 of the following:

16 6 a. To the best knowledge of the person personal  
16 7 representative, the gross value of the estate probate assets  
16 8 subject to the jurisdiction of this state does not exceed the  
16 9 amount permitted the small estate under the applicable  
16 10 provision of section 635.1.

16 11 b. The estate has been fully administered, dispersed, and  
16 12 will be disbursed and distributed to persons entitled to the  
16 13 estate and a if no objection is filed to the closing statement  
16 14 after the requisite time period has expired as provided in  
16 15 subsection 2.

16 16 c. A description of the disbursement and distribution of  
16 17 the estate including an accurate description of all the real  
16 18 estate of which the decedent died seized, stating the nature  
16 19 and extent of the interest in the real estate and its  
16 20 disposition.

16 21 e. d. A copy of the closing statement and an opportunity  
16 22 to object and request a hearing has been sent to all  
16 23 distributees of the estate and to all known creditors and a  
16 24 full account in writing of the administration of the estate  
16 25 has been furnished to the distributees whose interests are  
16 26 affected by proper notice, as provided in section 633.40, to  
16 27 all interested parties.

16 28 e. The personal representative has complied with all  
16 29 statutory requirements pertaining to taxes, including whether  
16 30 federal estate tax was paid or a return was filed, whether  
16 31 Iowa inheritance tax was paid or a return was filed, whether  
16 32 the decedent's final personal income taxes were filed, whether  
16 33 fiduciary income tax returns for the estate were filed, and  
16 34 whether a lien continues to exist for any federal or state

16 35 tax.

17 1 ~~3.~~ 2. If no actions or proceedings involving the estate  
17 2 are pending in the court ~~sixty thirty~~ days after notice of the  
17 3 closing statement is filed, the estate shall close after  
17 4 distribution and the ~~clerk shall discharge the administrator~~  
17 5 ~~or executor personal representative shall be discharged.~~

17 6 ~~4.~~ 3. The closing statement shall include a statement as  
17 7 to the amount of fees to be paid for services rendered by the  
17 8 ~~executor or administrator personal representative~~ and the  
17 9 ~~executor's or administrator's personal representative's~~  
17 10 attorney in administration of the estate. The fees for the  
17 11 ~~executor or administrator and the executor's or~~  
17 12 ~~administrator's attorney shall not be in excess of the fees~~  
17 13 ~~permitted by section 633.197~~ personal representative shall not  
17 14 exceed three percent of the gross value of the probate assets  
17 15 of the estate, unless the personal representative itemizes the  
17 16 personal representative's services to the estate. The  
17 17 personal representative's attorney shall be paid reasonable  
17 18 fees as agreed to in writing by the personal representative at  
17 19 or before the time of filing the probate inventory or as  
17 20 approved by the court. All interested parties shall have the  
17 21 opportunity to object and request a hearing as to all fees  
17 22 reported in the closing statement.

17 23 ~~5.~~ 4. If a closing statement is not filed within twelve  
17 24 months of the date of issuance of a letter of appointment, an  
17 25 interlocutory report shall be filed within such time period.  
17 26 Such report shall be provided to all interested parties at  
17 27 least once every six months until the closing statement has  
17 28 been filed unless excused by the court for good cause shown.

17 29 A closing statement filed under this section has the same  
17 30 effect as final settlement of the estate under chapter 633.  
17 31 Sec. 25. Section 635.13, Code 2007, is amended to read as  
17 32 follows:

17 33 635.13 NOTICE == CLAIMS.

17 34 If a petition for administration of a small estate ~~of a~~  
17 35 ~~decendent~~ is granted, the notice as provided in section  
18 1 633.237, and either sections 633.230 and 633.231 or section  
18 2 sections 633.304 and 633.304A shall indicate administration as  
18 3 a small estate be given. Creditors having claims against the  
18 4 estate must file them with the clerk within ~~four months from~~  
18 5 ~~the second publication of the notice~~ the applicable time  
18 6 periods provided in such notices. The notice has the same  
18 7 force and effect as in chapter 633. Claimants of the estate  
18 8 shall be interested parties of the estate as long as the  
18 9 claims are pending in the estate.

18 10 Sec. 26. Sections 635.3, 635.4, 635.5, 635.6, 635.9,  
18 11 635.10, 635.12, and 635.14, Code 2007, are repealed.

18 12 Sec. 27. CODE EDITOR DIRECTIVE. The Code editor is  
18 13 directed to transfer and renumber sections 635.7, 635.8, and  
18 14 635.13, as amended in this Act, to enhance the readability of  
18 15 Code chapter 635.

18 16 Sec. 28. APPLICABILITY.

18 17 1. The sections of this Act amending sections 633.168 and  
18 18 633.178 apply to fiduciaries appointed on or after July 1,  
18 19 2007.

18 20 2. The sections of this Act amending sections 421.27,  
18 21 450.4, 602.8102, 633.199, 633.272, 633A.4703, 635.1, 635.2,  
18 22 635.7, 635.8, and 635.13 apply to estates of decedents dying  
18 23 on or after July 1, 2007.

18 24 3. The section of this Act amending section 561.1 applies  
18 25 retroactively to beneficiaries of trusts in existence on or  
18 26 after July 1, 1997.

18 27 4. The sections of this Act enacting sections 598.20A and  
18 28 598.20B apply to all decrees of dissolution, annulment, or  
18 29 separation entered on or after July 1, 2007.

18 30 5. The section of this Act enacting section 633.123  
18 31 applies to all estates, conservatorships, and trusts under  
18 32 court supervision in existence on or after July 1, 2007.

18 33 6. The section of this Act amending section 633.551  
18 34 applies to petitions filed on or after July 1, 2007.

18 35 7. The sections of this Act amending sections 633.669,  
19 1 633.670, and 633.700 apply to annual reports of guardians,  
19 2 conservators, and court-supervised trusts due on or after  
19 3 September 30, 2007.

19 4 8. The section of this Act repealing sections 635.3,  
19 5 635.4, 635.5, 635.6, 635.9, 635.10, 635.12, and 635.14 applies  
19 6 to estates of decedents dying on or after July 1, 2007.

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President of the Senate

PATRICK J. MURPHY

Speaker of the House

I hereby certify that this bill originated in the Senate and  
is known as Senate File 540, Eighty-second General Assembly.

MICHAEL E. MARSHALL

Secretary of the Senate

Approved \_\_\_\_\_, 2007

CHESTER J. CULVER

Governor